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# **Standing Committee on Procedure and House Affairs**

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**Chair**

**The Honourable Larry Bagnell**



## Standing Committee on Procedure and House Affairs

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• (1100)

[English]

**The Chair (Hon. Larry Bagnell (Yukon, Lib.)):** Good morning. Welcome to the 73rd meeting of the Standing Committee on Procedure and House Affairs. The meeting is being held in public. Today we are continuing our study of Bill C-50, an act to amend the Canada Elections Act with respect to political financing.

Our witnesses today during the first hour are Professor Eric Montigny, department of political science, University of Laval; and Dr. Leslie Seidle, research director, Institute for Research on Public Policy.

Thank you both for being here. You'll each have up to 10 minutes for opening statements and then we'll have questions related to Bill C-50. With all your knowledge, if you're asked a question on something else, it's up to you whether you wish to answer.

Thank you, and we'll start with Mr. Montigny.

[Translation]

**Mr. Eric Montigny (Professor, Department of Political Science, Université Laval, As an Individual):** Good morning.

I thank the Committee for inviting me to speak today.

The last time I appeared was during consultations on electoral reform and the voting system. I hope that your work will reach a more satisfactory conclusion this time.

First of all, I would say that making a contribution to a party remains a fundamental democratic exercise, a fundamental democratic right even. In a political system, giving money to a party is as much a type of political expression as it is activism. This is the first thing that we should keep in mind. It is also a way to support a cause, a political stream and, generally speaking, democracy.

Contributing to a political party is also a means for political parties and elected officials to stay in touch with civil society. It is also a way to energize a party's militant grassroots or to aim to do so.

As such, it is important to think about it and to question amendments to the political financing provisions of the Canada Election Act. I would add that it is critical to examine the oversight role that the State must play when it comes to political financing. My remarks and my analysis of Bill C-50 address those issues.

The rules of political financing are at the core of a democratic regime. We must be aware of the fact that Bill C-50 can impact the

balance of political forces and the arrival of new players in a partisan system. That is the case when the rules of political financing are directly or indirectly concerned.

The State has a definite responsibility regarding transparency and equity among voters. That is the oversight role that it must play when it comes to political parties and their financing.

Over the years, Canada has managed to develop a model that differs from the one in the United States and which gives central stage to the voter. It has been a fundamental principle of the Canada Elections Act for a few years.

After further analysis of Bill C-50, we find that it does not question the principles of transparency and voter primacy, but upholds them. It will, actually, increase transparency, but it will not solve the structural problems raised in the political debate, including those related to equity and trust, despite its objectives.

Generally speaking, what are the goals of Bill C-50? First of all, it aims at fighting a certain type of cynicism in response, of course, to critics raised regarding access to elected officials based on political contributions. It seeks to avoid situations in which contributing to a political party is perceived as a way for the richest members of society to get a privileged access to politicians.

In what way does Bill C-50 meet these objectives? First of all, we must recall that, like most bills on election regulations, this one stems from a media frenzy. The party-managed registry of financing activities that will be created as a result of this bill will most likely end up being managed by the Chief Electoral Officer.

One of the important consequences of this bill is that, once it's passed, it will lead to a registry of lobbyists logic. It is a structural effect that must be debated and given some thought. In other words, the bill will create a dynamic similar to that of a registry of lobbyists.

In a democratic financing system, the origin of donations must, of course, be made public. Bill C-50 goes further when it asks that financing activities be published in a registry, five days in advance, followed by the names of participants. It is a political or transparency dynamic more similar to the prior disclosure of influence activities than to activist activities.

• (1105)

Similarly, the bill could have adverse effects on political dynamics. Initially, such a process will be much more difficult to handle for smaller parties than for the strongly institutionalized ones that enjoy a well-established partisan bureaucracy to manage accountability. That is the first thing.

Moreover, the bill will increase political parties' risks of breaches, penalties, and blame given the multiplicity of their financing activities. It could also deter certain activists from contributing to political parties; at least, that is what I fear. It confirms the perception that it is suspicious to make a contribution to a political party while, in reality, as I was saying from the outset, contributing to a political party is an exercise in democracy and activism. Even though, in its current form, the bill includes exemptions during an election period, the political dynamics could lead to these exemptions being called into question.

Let's come back to the bill's objectives. In order to reduce cynicism and to show that the perception that donors get access to elected officials in exchange for contributions is false, I believe that we must think more about lowering contribution thresholds. We must lower the annual contribution thresholds to a political party. We must also think about reintroducing a type of State allowance.

As for the other aspect concerning the oversight of nomination contests and leadership races, the bill responds to the Chief Electoral Officer's recommendations to account for all expenditures. No one is better positioned than him to establish the appropriate legal terminology to achieve these objectives.

As far as I'm concerned, the questions arising from the analysis of the bill centre around two elements. Why not extend its provisions to include the election of all national party officers? We know that there are campaigns to elect committee chairs and different national executive positions within a party, which are, ultimately, prestigious positions.

Why not also review anonymous donations? We know that Canadian legislation is much more tolerant than that of other jurisdictions, for instance Quebec.

In conclusion, your committee's work is essential to democracy. The study of political party financing goes beyond a bill to encompass the balance of political forces both in a Parliament and in civil society. By changing the rules of financing, we intervene in what constitutes the sinews of war in politics: funding.

It is important to assess both the positive and potentially negative impacts of amendments. I'm afraid that Bill C-50 will change the perception of what constitutes a political donation — which, in my opinion, must be associated with political activism rather than a gesture of influence — by adapting or integrating a dynamic specific to the registry of lobbyists.

Thank you for listening to me.

•(1110)

**The Chair:** Thank you very much.

[*English*]

Dr. Leslie Seidle, you have 10 minutes for opening comments before we go to a round of questioning.

[*Translation*]

**Dr. Leslie Seidle (Research Director, Institute for Research on Public Policy, As an Individual):** Thank you, Mr. Chair, for inviting me to take part in your study of Bill C-50.

[*English*]

My presentation will be in two parts. First, I will make some general observations about the purpose of the bill, intended to situate it in the context of the ongoing development of the regulation of political finance under the Elections Act, and then I will have a few comments about certain provisions of the bill.

Canada's regulatory framework for election and political finance is considered, with justification, to be one of the most progressive in the world. It is based on a number of principles, one of which is transparency. As with other parts of the Canada Elections Act, the means to further that principle have evolved over time. Often this has occurred in response to scandal or to concerns about the potential for financially well-endowed interests to exercise undue influence over the federal, political, and legislative processes. We can think, for example, about the Pacific scandal of 1872 as well as the Rivard affair and related controversies about irregular party funding during the Pearson government in the mid-1960s.

In response to the first, the Pacific scandal, Parliament introduced a requirement in the 1874 Dominion Elections Act that candidates report on their election spending. However, there were no sanctions or an effective enforcement body, and the provision became a dead letter.

In response to the controversies of the 1960s and the pressures on political parties for financing election campaigns, the Pearson government appointed the committee on election expenses in 1964. It's often referred to as the Barbeau committee. Significant parts of that report were enacted in the groundbreaking Election Expenses Act of 1974.

Over time, two developments have occurred to strengthen transparency in federal political finance. First, the reporting requirements have been extended beyond parties and candidates that were covered by this 1974 statute to other entities—constituency associations, leadership contestants, nomination contestants, and third parties. I might add that this extension follows from some of the recommendations of the Royal Commission on Electoral Report and Party Financing. I was the senior research coordinator for that commission, so I am slightly biased. But sometimes it takes quite a while for the work of royal commissions to actually be implemented, and this is an example where the extended reporting that the Lortie Report recommended actually came into place some ten years later.

The second development is that some of the requirements that were instituted in the seventies have become more demanding. For example, since 2004, political parties must report on their contributions at the end of every three-month period rather than annually.

Bill C-50 fits within the pattern of developments I just sketched. First, if passed, it will extend reporting requirements, with some exceptions, to those attending most fundraising events sponsored by parties represented in the House of Commons as well as events sponsored by their leadership and nomination contestants, providing they meet certain criteria.

The bill also responds to concerns about the potential influence of people who attend fundraising events in addition to those who make political contributions. For those who do contribute, the identity is reported under the already existing requirements.

Particular concern has been expressed about the attendance of non-Canadian business leaders at certain fundraisers. I don't need to go into any more detail about that; you're aware of what I'm talking about. In light of the ban on foreign contributions to federal political entities, which I am sure most Canadians support, I share that concern. I share a concern about the attendance of foreign business leaders, and indeed, foreign interests from different sectors that happen to be business leaders who have been mentioned in some of the commentary about fundraising.

I would underline, to sum up, that political finance reporting requirements are intended not only to allow the public, the media, and others to have reasonably timely access to relevant information but also to serve a broader purpose. My colleague has referred to that as well.

● (1115)

The Lortie report included the following observation: “Full disclosure of information on financial contributions and expenditures is an integral component of an electoral system that inspires public confidence.” The Minister of Democratic Institutions also drew this link when she spoke on a second reading last June 8. She stated, “Canadians have a right to know even more than they do now about political fundraising events...so that [they] can continue to have confidence in our democracy.”

I should add that what the bill will intend to do, and what the Canada Elections Act does already, needs to be situated in a broader context. We can't put all the freight on the shoulders of the Canada Elections Act. We have lobbyist registration; we have ethical codes of conduct; and we have officers of Parliament who are charged with implementing the statutes and the regulations under them, and you're hearing from two of them later today, including my former colleague Mary Dawson.

Turning to the provisions of Bill C-50, I have three brief comments. First of all, there have been questions about whether the reporting requirements should also apply to political parties in addition to the party in government. In response I would say that first of all, it's entirely possible that an opposition party becomes a governing party. That's a fundamental part of our system, and it happens all the time. In the meantime, its leaders and MPs participate in the legislative process. It is therefore legitimate to apply similar rules to the fundraising activities of opposition parties. Moreover, the political finance regulatory scheme, as set down in the 1970s and modified since, is not based on a distinction between the governing and other political parties. Rather, it requires political parties, whether they're represented in the House or not, to apply to register providing they meet certain criteria. Once they do so, the same rules, whether they're on reporting, spending, or contributions, apply to all the registered parties. There isn't a distinction between whether you're in government or sitting on the opposition side, or indeed whether you're inside or outside the House, providing you're registered.

Secondly, Bill C-50 provides that a party or other entity must publish information about a fundraiser on its website at least five days before the event takes place. This is too short. Such events are planned weeks, if not months, before they are held, and in my view the five-day period should be lengthened. If the announcement needs to be modified, for example if a minister has been invited to come and he or she cannot come at the last minute, the notice on the website can be modified. Indeed, the bill already specifically covers updates.

Finally, along with Jean-Pierre Kingsley, with whom I worked a little over 10 years ago, I find the sanction of a \$1,000 fine for non-compliance too weak. The level of the sanction should send a message that the new requirements must be treated seriously.

The second part of the bill covers leadership and nomination contest expenses. As I understand it, these amendments flow from an interpretation note the Chief Electoral Officer issued in August 2015 and from his report after the election of that year. Beyond saying that it is important to align the text of the Canada Elections Act with Parliament's intent, I don't have any specific comments on that part of the bill.

● (1120)

[*Translation*]

I will be happy to answer your questions and comments.

**The Chair:** Thank you, Mr. Seidle.

[*English*]

We have a seven-minute round, and that includes the questions and answers. Our first questioner will be Mr. Bittle.

**Mr. Chris Bittle (St. Catharines, Lib.):** Thank you so much. I'd like to thank the witnesses for appearing today.

I'd like to start with Monsieur Montigny. I'm wondering if you could expand your comments on why this would be detrimental to smaller parties. I know there are limitations within the legislation on smaller parties, but please expand on why, and share your thoughts on that.

[*Translation*]

**Mr. Eric Montigny:** As my colleague said, the opposition parties are actually trying to exercise power. But the burden on all the parties in terms of accountability or the number of fundraisers is quite significant. Time will tell, but the burden of the political parties may be very high.

In this context, smaller political parties, the ones with fewer resources or the least capacity for functional permanence, may have a greater burden in terms of the resources that must be allocated to accountability.

Nobody can be against transparency or electricity. That's for sure. However, and since we were talking about transparency, the bill aims to shed light on the funding of political parties.

My concern is that we are entering a dynamic where it will never be enough. We will always ask for more accountability. And the risk that organizers or activists who are acting in good faith will make mistakes will increase. I want to caution the committee about this.

[English]

**Mr. Chris Bittle:** I appreciate your comments, but is there the appropriate balance in this legislation? With respect, the legislation applies only to parties that have members in the House; then we're talking about only one individual member within the House who has to report.

I can understand the argument of the slippery slope, but isn't the balance achieved for other parties, if it's—?

[Translation]

**Mr. Eric Montigny:** There are inequalities or iniquities in terms of resources even in the parties represented in the House. It's normal in a political system. Not all parties, even if they are represented in the House, have the same degree of institutionalization, the same budgets or the same partisan bureaucracy to account for obligations.

My concern is rooted in a theory that was developed by Richard Katz and Peter Mair in the mid-1990s. It's the cartel party model.

When I analyze a bill, I wonder whether the parties represented in the House and the dominant parties in the National Assembly are introducing mechanisms in the electoral legislation that prevent new players from emerging or that make it more difficult and complicated for the development of parties that are minor now, but may become major in the future.

I hope my answer is adequate.

[English]

**Mr. Chris Bittle:** Thank you.

The acting Chief Electoral Officer indicated that he thought the bill struck the right balance in terms of which fundraising events were captured. This includes limiting which parties it applies to and instituting a minimum ticket price of \$200.

Do these limits seem reasonable? That question is to both witnesses.

• (1125)

**Dr. Leslie Seidle:** I don't have any reason to disagree with his assessment. He has a lot of experience and has good people working for him, some of whom are my former colleagues.

I might add, in response to my colleague, and disagreeing somewhat, that I think the bigger hurdle for a political party is meeting the registration requirements. They've become considerably more supple over time as the result of a Supreme Court decision. It used to be that you had to field 50 candidates in order to have your registration come into effect at a general election.

If you're able to meet the requirements for reporting under the law once you become registered, it doesn't seem to me that adding this additional reporting requirement—bearing in mind that these are small parties that are not likely to be having a fundraising event every week or so—is something we should be overly concerned

about. I think the potential benefit outweighs the potential discouragement to the further advancement of that party.

**Mr. Eric Montigny:** We have two different opinions. You have to decide.

**The Chair:** You have a minute and a half.

**Mr. Chris Bittle:** In terms of the major political parties that are represented here, and the main opposition leaders present at these events that are captured, do you think it's in the interest of the public that for those individuals their fundraising activities be captured? I'm speaking, for example, of the Leader of the Opposition and the leader of the NDP.

**Dr. Leslie Seidle:** I addressed that in my comments. I think it is entirely reasonable. I don't see why you would target only the governing party.

Let's say you were in a minority situation, which we were for almost a decade. Parties go in and out of government every 18 months or so. What they do in opposition—the people they speak with and so on—can make a difference when they get into power. I might say, although no one has raised it yet, that some people ask what kind of business can you actually do at a fundraiser when people are standing around with lukewarm glasses of white wine and maybe nibbling on some cheese that is handed around or maybe sitting on a table. There are limits to the kind of business you can do. However, you can have a quiet word with somebody and it can make a difference. We're a small country, and the connections that are established, even just the visibility of someone handing over his or her business card, for example, can make a difference.

When there are foreign business interests that want to develop whether old folks residences or other projects in Canada, it is quite legitimate that Canadians should know about this.

[Translation]

**Mr. Eric Montigny:** This time, I agree with my colleague.

We are talking about relationships of influence, and that's where the perception of a lobbyist registry comes into play. I repeat: if we want to solve the problem at the source, we have to think about lowering contribution thresholds. I'm not saying that it should be \$100, as is the case in Quebec, which is quite low.

We need to think about access from the perspective of fairness: who has the means to participate in fundraising activities as citizens? The fairness principle is fundamental in an electoral legislation, at both the federal and provincial levels, as in Quebec.

[English]

**The Chair:** Thank you very much.

We'll now go to Mr. Nater.

[Translation]

**Mr. John Nater (Perth—Wellington, CPC):** Thank you, Mr. Chair.

Mr. Montigny, you said you were concerned that the bill would not apply during an election campaign. Could you give us the reason for that concern?

**Mr. Eric Montigny:** Absolutely.

First, it's a matter of consistency. I see Bill C-50 as a first step. Clearly, people are always asking for more transparency. My concern is that the media or the general public will ask what we have to hide during an election period that we don't hide the rest of the time. People will wonder why there are two systems, one during the election campaign and another the rest of the time. Inevitably, elected officials will be asked why there are two different systems.

Of course, we could say that the pace is more frenetic during an election campaign because more events take place. The reports can be produced later; there are other obligations. Pressure will be strong on elected officials to apply the same provision as outside an election period, for the sake of consistency.

I'm trying to see two steps ahead. To use a very Quebec image, I think that Bill C-50 puts your hand in the wringer. Questions will inevitably be raised about the application of the same principles in an election campaign. We will then move to a registry like a lobbyists registry, the principle of which is to regulate relationships of influence.

I'm talking about activism today and preserving the activism link associated with campaign donations.

Does that answer your question?

• (1130)

[*English*]

**Mr. John Nater:** Thank you very much.

Dr. Seidle, you mentioned that you agree with Mr. Kingsley that the \$1,000 fine isn't appropriate, that it's too low. Do you have a number in mind, or do you have a suggestion of what that should look like in terms of the fine?

**Dr. Leslie Seidle:** I don't want to tread in a field where I'm not trained, which is law. I would simply say that I think it should be higher. It should remain a fine. It shouldn't be moved into criminal offences under the Canada Elections Act.

It seems to me, as with the five-day notice, that it's almost sending a signal that we have to do this stuff, but let's not make it more difficult than necessary. This is different from election expenses. This is different from reporting on contributions. On the other hand, it's not unrelated to contributions. If it's meant to be a serious step forward, then this should be communicated in the terms of the bill.

**Mr. John Nater:** Thank you.

You mentioned the five-day notice. We've had some discussion around this table with other witnesses about a situation in which five days' notice might be given or an event is long planned, but there's no specific speaker or attendee that would fit the bill. Then in a period of one or two days in advance of the event, the notice is amended to include the Prime Minister or a minister.

Do you have any thoughts on that provision? In a sense, it's getting around the five-day notice period by just confirming a special guest close to the date. Do you have any thoughts or concerns about that?

**Dr. Leslie Seidle:** You could do that with a longer notice. Let's say you have a 15- or 30-day notice. You can amend it. In fact, the bill is quite specific. I was surprised that it got into that level of

detail, but the bill provides for updates. It didn't need to do that, because anybody who's organizing an event will, of course, update the notice. People are going to websites all the time for their information. They're not waiting to get letters in the mail and all that sort of thing. Notices are going up on Facebook.

I don't think the length of the notice should be tied to the fact that senior political people often have very unpredictable schedules. That can be accommodated.

**Mr. John Nater:** So you're saying that, even if the Prime Minister or a minister isn't attending, the notice should nonetheless be given publicly, even if there isn't a guarantee that there is a designated office-holder attending?

**Dr. Leslie Seidle:** Yes.

**Mr. John Nater:** Very good.

Another point you raised was about the reporting requirements with some exemptions. One of those exemptions is for minors. We have had the discussion around this table on where you draw the line in terms of minors. My three-year-old daughter probably doesn't need to be reported, but a 16- or 17-year-old high school student active within the party should perhaps be reported.

Do you have any thoughts on whether there should be a differentiation made or a blanket prohibition of anyone under the age of 18 being reported?

• (1135)

**Dr. Leslie Seidle:** Well, the age of 18 is a reasonable one. Perhaps it might be lowered a bit. I wouldn't, however, go as far as Mr. Kingsley did. I think he talked about reporting on the presence of seven-year-olds. I may be wrong. I may have got that number wrong, but I know it was a single digit. I wouldn't go any lower than 16.

**Mr. John Nater:** This is very quickly for either of you.

Mr. Montigny, you mentioned this perhaps leading into a type of lobbyist registry. Do you see as a potential cost or resource challenge for Elections Canada developing an entire apparatus to deal with a registry beyond perhaps what's envisioned in Bill C-50?

[*Translation*]

**Mr. Eric Montigny:** If he hasn't already, the Chief Electoral Officer will soon ask to manage the registry himself. We're putting in place an infrastructure that may seem lessened right now, but in the future, it will become increasingly important and increasingly bureaucratized within Elections Canada.

[*English*]

**The Chair:** Thank you, Mr. Nater.

We'll go on to Mr. Christopherson.

**Mr. David Christopherson (Hamilton Centre, NDP):** Thank you, Chair.

I'd like to thank you both for your attendance today. We appreciate it.

I'd like to follow up on the five days, because it has been the focus, as Mr. Nater said, of a fair bit of discussion here. One of the things that Mr. Kingsley just kind of threw out there and I grabbed immediately, as I thought it solved one of our problems, was this issue of the notice of who's going to be there in five days. I think it was Mr. Nater who raised the possible concern that wink-wink, nudge-nudge, certain people could know who's going to be there suddenly at the last minute, and therefore the intent of the bill would be thwarted.

Mr. Kingsley threw out the suggestion, which I'd like your response to, that if you're not named on that notice effective at least five days before the event—by the way, that's also too soon, but let's just use that for now—then you can't show up. I liked it because it would immediately prevent any kind of wink-wink, nudge-nudge, and would thwart that go-around in terms of having somebody show up, supposedly as a surprise but not really as a surprise to everyone.

I'd like to hear your thoughts on just going a step further and saying that if you're one of the listed people and you're not on that list five days before, you can't go to that event.

**Dr. Leslie Seidle:** I give Mr. Kingsley points for creativity on that one. On the other hand, it seems to me to be an example of...well, to put it bluntly, interference in internal political party affairs. Yes, the act already regulates lots of party affairs, but....

Then there would be easy ways of getting around it. Minister X is on the program as coming to the fundraiser. Then that person falls ill two or three days before the event. It's only reasonable that he or she be replaced by somebody else. Surely you would not bar that person from substituting for the minister who was already on the program. That would be way, way too intrusive. As to the kinds of sanctions you would have for that in the statute, I think you'd be getting into some very tricky areas.

**Mr. David Christopherson:** We've run into an area where I completely disagree with your thinking—totally. Yes, it interferes, but everything we're doing here interferes in the internal business of parties. That's the whole idea. You're not supposed to have free rein to do whatever you want with whatever money you want. So I have to tell you that I disagree. I think if somebody falls ill, that's unfortunate, but a lot of unfortunate things happen. I have fundraisers in my riding. I guarantee you that my leader doesn't suddenly show up if I get ill; it's just too bad, so sad.

Remember what the offset here is. The government, through this bill, is trying to dampen access for cash. I won't get into a debate. I'll give you an opportunity to respond, if you wish, but I just want to say that I completely disagree. I think the whole idea is to interfere in the internal business of parties to ensure that their actions are not against the public interest.

I'll give you a chance to answer, if you want.

• (1140)

**Dr. Leslie Seidle:** We can leave it at that. I would put it on the record, though, that the point I was making was about interfering more than necessary, or interfering in an unreasonable way. But I would reiterate my point about the practicality of it, which is, I think, the more important one.

**Mr. David Christopherson:** Sure.

Yes, Mr. Montigny, please jump in.

[*Translation*]

**Mr. Eric Montigny:** It's a big debate, which is raised by the exchange I just heard, whether political parties are increasingly becoming public organizations or if they are remaining private organizations.

That being said, as I said, an electoral change like the one we have before us today moves in the direction of creating a registry to regulate relationships of influence, much more than to monitor contributions associated with activism.

[*English*]

**Mr. David Christopherson:** Does this tie into your thinking about how this might end up, in your view, like the lobbying...?

You know what? I found that very interesting; I know you answered one question, but I'd appreciate you just expanding on it a little more. I'm not quite getting the slippery slope of concern that I think you're suggesting we may be getting onto. I want to understand your point, because it seems to be an important one to you. Would you please expand on it and help me understand it better?

[*Translation*]

**Mr. Eric Montigny:** The primary purpose of the Elections Act is to ensure the transparency of funding contributions, and to fundamentally support a cause based on its ideas and values, and to engage in a democratic debate related to our own values within a political party. This is the essence of a political contribution. It's a democratic right.

In my opinion, this bill prevents relationships of undue influence, which are more like lobbying. In this case, it is a question of meeting with politicians to put forward a project, and to use the political contribution to do so.

This bill applies the same reasoning as that used to regulate lobbying, but this time it will apply to political parties. It will have to be evaluated a few years after its adoption, but I am afraid that political fundraising events will be turned into influence communications events, rather than activism events. That's my central concern, because the perspective of the relationship that political parties have with their activists are being changed, as is the relationship in terms of influence communications framework.

So we're applying a registry logic that will become more and more complex over time, because we will always want more transparency. It seems to me that we are on a slippery slope that can ultimately transform the relationship that political parties have with their activists.

Does that answer your question?

[*English*]

**Mr. David Christopherson:** Yes, thank you. It would affect it in that they would shy away from being active, because it would give them a label. That would be your concern.



[Translation]

**Mr. Eric Montigny:** We've seen a drop in individual contributions in Quebec. This is less so at the federal level, but in Quebec it's now very inappropriate to contribute to a political party. So there is a negative connotation to political donations and, ultimately, it undermines democracy. If it's no longer appropriate to give money and contribute to a political party based on its values, convictions and activism, it undermines the link the party must maintain with civil society or with its activists.

[English]

**Mr. David Christopherson:** Thank you.

We've had submissions from Democracy Watch. Duff spent a fair bit of time focusing on the contribution threshold. It was his opinion that lowering that threshold—he pointed to Quebec as an example, and I think you said that might be a bit low, but I'll give you a chance to comment on that—would solve an awful lot of these problems.

You have that experience in Quebec. Could you just expand on how you think it would be so much better for our electoral system if we lowered that threshold, and again, where you think it will have an impact and why?

[Translation]

**Mr. Eric Montigny:** The Quebec legislation is recent. It was passed in 2012.

That said, the chair I co-lead on democracy and parliamentary institutions is currently conducting a study among the various political parties on the impact of the legislation. We are comparing the federal government to the Quebec government. There are two very contradictory aspects that arise at the same time. First, at the federal level, allocation to political parties based on the number of votes received was abolished, while Quebec went in the opposite direction. Currently, the funding of political parties in Quebec is 80% dependent on public funds, government funds. It's the opposite of what existed prior to the 2012 reform. This is a very important change, and we want to measure the impact of this situation on activism.

It's a question of balance. The fairness principle is at the heart of both the federal and Quebec legislation, as well as primacy of the voter and transparency. These are central principles. At a cost of \$1,500, despite the tax credit, can we consider that all our citizens have access to fundraising activities? The question is valid. Not all of our citizens can afford it. I think we have to find a balance.

The preliminary results of the research we're conducting in Quebec show that \$100 is still very little. There can be a balance, without going to extremes. However, the fundamental test is knowing whether the average voter can attend an event like this. Otherwise, it really becomes a question of “paying for access” if the price to attend an event is too steep or the majority of voters.

• (1145)

[English]

**The Chair:** Thank you.

**Mr. David Christopherson:** Thank you, Chair.

Thank you very much, gentlemen.

**The Chair:** Now we'll go to Mr. Graham for seven minutes.

[Translation]

**Mr. David de Burgh Graham (Laurentides—Labelle, Lib.):** Thank you, Mr. Chair.

Mr. Montigny, I have several questions for you. Earlier, you talked about including more people in opposition parties, but not in smaller parties. When should a party be more open?

**Mr. Eric Montigny:** Thank you for the question.

I'll come back to the principle of cartel parties, or the cartelisation of parties, which can be found in the bills on the reform of the Elections Act. Well-established parties will put in place measures that either favour them or make it easier for them to meet these obligations under the act because they are highly institutionalized and well-established. They have significant funding, which is stable every year.

My fear—in the dynamic of the bill that will ultimately have to be assessed—about the accountability plan is that it is too important. There are political parties, for example, that are not covered by the bill, but I can give you the example of Quebec where, with contributions of only \$100, it is difficult to collect individual contributions to cover audit costs.

So we must be aware that, when the burden of accountability is added to the institutional capacity of new parties or emerging parties, we need to be able to respond.

**Mr. David de Burgh Graham:** A party isn't recognized until it has a seat in Parliament.

It seems to me that when a party has at least one seat, it should have the ability to report on attendance at a partisan event.

When a party doesn't have a seat, we can't know who attends the events. I understand your philosophical idea, but I hear things.

**Mr. Eric Montigny:** I don't want to get into specific situations, but the smaller parties represented in the National Assembly, which are not caucuses, are much less institutionalized than the political parties that form the caucuses in the House. As a result, the administrative burden will be much greater for parties that are not highly institutionalized, even if they are represented in the House, than for parties that, for example, hold departmental party or first opposition party functions.

[English]

**Mr. David de Burgh Graham:** Mr. Seidle, I'll go to you for a few moments. You mentioned that the system in Canada is one of the most progressive in the world for finance rules. Can you draw some comparisons to other countries and who's doing it better or worse than we are? Do you have thoughts on that?

**Dr. Leslie Seidle:** I'll mention just two. Very briefly, two countries have a lot of influence on Canadian political culture.

The U.S. has essentially no spending limits at all on anything. The only spending limit that applies is when a presidential candidate agrees to accept public funding. Increasingly, over the latest campaigns, they've declined; even the Democratic candidates have declined. With the Supreme Court's decision on Citizens United about five or six years ago, the limits on contributions are even weaker than they used to be as are the limits on the reporting by what are called political action committees.

The U.S. is in no way—in no way—a valid point of reference for Canada in this area. Call me undecided.

In the U.K., only since 2000 have there been limits on party spending. Candidates were limited in 1883. But there are no contribution limits, so there are still regular donations—and I'm not making this up—of as much as one million pounds to political parties, including to the Labour Party. It's interesting that often some of these donors magically find themselves sitting on the cross-bench of the House of Lords or sometimes on the party benches of the House of Lords.

Historically, Britain has been somewhat of a reference point because, when the Barbeau committee was looking at spending limits in the 1960s, it could look to Britain where there were candidate limits and agency—the official agent concept was started in the U.K. in 1883. Britain has evolved, but there are still areas where the equity that's meant to be in a political finance regime is not present.

• (1150)

**Mr. David de Burgh Graham:** You also talked a bit about which parties are affected. Any opposition party that's already in the House is affected. Do you find that appropriate, or do you believe newer parties should be affected, or should fewer parties be affected? Should anybody besides the leader and leadership candidates be affected in opposition parties, in your view?

Either of you can answer that.

**Dr. Leslie Seidle:** I don't have any difficulty with the list of those who are within the umbrella in the statute as it now stands. It seems to me that the criterion of representation in the House is a reasonable one. It could have been another one. It could have been any registered party, but the drafters decided to move it up a notch, and not cover all the parties that are on the registry at Elections Canada.

[Translation]

**Mr. Eric Montigny:** I would add that compensation mechanisms are needed to take into account the specific reality of each party, depending on its resources, in order to meet the obligations prescribed by law.

[English]

**Mr. David de Burgh Graham:** Can I give the last few moments of my time to Ms. Tassi, if I have any?

**The Vice-Chair (Mr. Scott Reid):** Sure. You have about a minute and a quarter.

**Ms. Filomena Tassi (Hamilton West—Ancaster—Dundas, Lib.):** Thank you.

Mr. Montigny, when you first started with your comments, you made the point that contributing to a political party is a democratic

right. You know that previously we had the testimony of the co-founder of Democracy Watch, and that that has come up with respect to the hundred-dollar limit.

Can you expand on the importance of exercising this democratic right and why you feel that making a contribution is a democratic right?

[Translation]

**Mr. Eric Montigny:** There are many ways to contribute to public life. We can do this by offering our time, volunteering, becoming a candidate or being elected. We can also contribute by making a donation. It's a way of expressing a political position within a democracy. I would say that political parties also have a connection with their activists who are contributors.

Who is a political party accountable to? The electorate, obviously, if elected, but it is accountable, first and foremost, to its members and the laws governing it. When members don't provide the political financing, or provide less of it, it's as if the power we give to members, activists, is much less present in the distribution of a political party's internal power.

I would say that it is part of the anchoring of a political party in society. I'm not talking about large donations; I'm talking about commitment, in different forms, of activists in a healthy party life. If we cut this link or make it more difficult, I'm afraid that some political parties will no longer be representatives of civil society in government or parliamentary institutions, but will be more like representatives of the government in civil society. So I think there is a major link between them.

At the individual level, contributing to a political party and expressing one's opinion financially is a democratic right; it's not just about giving time or volunteering.

• (1155)

[English]

**Ms. Filomena Tassi:** And are you satisfied with the limits that we have, in terms of the \$1,550? Do you think that limit is an appropriate limit?

[Translation]

**Mr. Eric Montigny:** I'm going to come back to the question I raised earlier.

The contribution limit in Quebec is \$100; it's very low. The question we have to ask ourselves to find a fair balance is this: how does the limit respect a principle of fairness in our electoral laws with regard to voter primacy? Can average citizens in a riding easily attend a fundraising event when the cost is \$1,500, despite the fact that they can get refunds or tax credits?

The question answers itself: a threshold of \$1,500 is still high.

[English]

**The Vice-Chair (Mr. Scott Reid):** Professor Seidle.

**Dr. Leslie Seidle:** I would make just a quick comment on this debate about \$100 versus \$1,550, which I think it is at the moment. The fact that there's a ceiling doesn't mean that anyone who wants to contribute to a political party has to get near that ceiling. They can give \$100 or \$200. The tax credit at the lower levels is so generous that giving a \$400 or \$500 contribution is actually quite feasible for people who are middle class. Lots of people do it.

I don't agree with Duff Conacher, who says that you should put the limits down to \$100. Political parties need money. Candidates need money. Perhaps the upper limit is too high but, and I repeat, it doesn't force anybody to dig into their bank account to contribute at that level.

This is just a final word on Duff Conacher's testimony. He mentioned at a couple of points that he finds the current regime—he wasn't referring only to the \$100 contribution limit—unethical and undemocratic. I don't feel that he demonstrated that in his presentation. I know he likes to make strong statements, and he has done a lot of good work to promote the development of our democracy. But when you make statements like that, you should be able to prove them. I don't believe that the proof is there.

We have a very healthy political finance regime. People come from all over the world to meet with Elections Canada, to learn about it. People read about it, and so on. It is cited, just as our Charter of Rights is cited, and our immigration system is often cited. I go abroad a lot and attend a lot of conferences.

We can always improve. That's what you're doing here today. I think we should also be fair about what we have achieved in this area and not say that it is unethical and undemocratic. That's going way too far.

[Translation]

**Mr. Eric Montigny:** I want to add something very quickly about what was just said.

Indeed, the tax credit can help to reimburse the expense, but the very spirit and very reason why we were invited to appear is to discuss access in exchange for contributions. When the price of access to an event is set at the limit of contributions, or near the limit of contributions, that's when it becomes difficult for people to access politicians who are featured during a fundraising event.

**The Vice-Chair (Mr. Scott Reid):** Thank you. Professor Montigny, you had the last word.

[English]

We're going to suspend momentarily so we can have the next witnesses take the stand.

Thank you to both of our witnesses very much.

I will now cede the chair to our chairman.

We'll just suspend for a moment.

● (1200) \_\_\_\_\_ (Pause) \_\_\_\_\_

● (1200)

**The Chair:** Just before we go to the witnesses, I want to remind the committee members that we have an extra-long meeting today with an extra half-hour for witnesses at one o'clock for the Elections

Ontario person. If people could try to get their amendments in by five o'clock today, then they can be distributed to committee members for Thursday's clause-by-clause.

Welcome back to the 73rd meeting of the Standing Committee on Procedure and House Affairs. We are studying Bill C-50, an act to amend the Canada Elections Act (political financing). We are pleased to have with us Mary Dawson, Conflict of Interest and Ethics Commissioner. She is accompanied by Martine Richard, general counsel. We are also joined by Karen Shepherd, the Commissioner of Lobbying. She is accompanied by Bruce Bergen, senior counsel.

As I say to all the witnesses, you are here and prepared for Bill C-50. If someone asks you a question about something else, it's up to you whether you answer. You don't have to answer that.

First of all, we have opening statements.

Ms. Dawson, you have the floor for any opening statement you would like to make.

[Translation]

**Ms. Mary Dawson (Conflict of Interest and Ethics Commissioner, Office of the Conflict of Interest and Ethics Commissioner):** Mr. Chair and committee members, thank you for inviting me to appear before you today as part of the committee's study on Bill C-50, An Act to amend the Canada Elections Act (political financing). With me today is Martine Richard, general counsel.

[English]

Bill C-50 amends the Canada Elections Act to create an advertising and reporting regime for political fundraising events attended by ministers, party leaders, or leadership contestants where the cost to participate is more than \$200. The aim is to increase transparency about who is attending such events. I support the direction of this proposed legislation. As I've said on previous occasions, transparency is important for any kind of regime that touches on conflict of interest.

Bill C-50 does not amend or directly affect the regimes that I administer: the Conflict of Interest Act and the Conflict of Interest Code for Members of the House of Commons. It does, however, apply to some individuals who are subject to those regimes.

Ministers, including the Prime Minister, are reporting public office holders under the Conflict of Interest Act. Leadership contestants and party leaders who are sitting MPs would also be subject to one or both of these conflict-of-interest regimes. I welcome the move to make all party leaders and leadership contestants—and not just ministers—subject to the new advertising and reporting regime. I note, however, that Bill C-50 does not cover parliamentary secretaries, who are subject to the Conflict of Interest Act, as reporting public office holders. The committee may wish to consider that omission.

It appears that the impetus for Bill C-50 was the high level of media attention and public concern about several so-called cash-for-access or pay-to-play fundraisers that have taken place in the last two years. These are events in which a relatively small number of attendees, in return for the price of admission, gain the opportunity to meet a featured minister or party leader. The fundraisers prompted a great many calls to my office and several requests for investigations. The level of public interest in fundraisers involving federal politicians is particularly high at present; however, concerns about political fundraisers were also raised much earlier during my mandate as commissioner. The issue of political fundraising came up in three of my examination reports under the act: The Raitt Report in May 2010, The Dykstra Report in September 2010, and The Glover Report in November 2014. I also addressed the matter in my submission to the parliamentary committee that conducted the five-year review of the act which concluded in 2014.

The Conflict of Interest Act contains only one provision, section 16, that directly addresses participation in fundraising activities. Section 16 of the act reads: “No public office holder shall personally solicit funds from any person or organization if it would place the public office holder in a conflict of interest.” There’s no specific mention of political fundraising in the Conflict of Interest Code for Members of the House of Commons.

This provision does not distinguish between political and charitable fundraising. Two elements must exist to establish a contravention of section 16: first, a public office holder must have personally solicited funds from a person or organization or have asked somebody else to do so; and second, it must be established that the personal solicitation would place the public office holder in a conflict of interest.

I should mention as well that one other paragraph of the act relates to political fundraising, and that’s paragraph 11(2)(a), which establishes an exception to the gift rule to allow for gifts that are permitted under the Canada Elections Act. As you will recall, the gift rule prohibits public office holders and their family members from accepting a gift or other advantage that might reasonably be seen to have been given to influence the public office holders in the exercise of a public power, duty, or function.

Other sections of the act, while not specifically about fundraising, could be triggered, but this could occur only at a later date, when a person who made a donation to attend a fundraiser seeks a particular outcome from a minister or a member of ministerial staff.

● (1205)

This would not arise when the fundraiser takes place or when the stakeholder makes the required donation. For example, section 6

prohibits public office holders from making an official decision or participating in making a decision if they know or should reasonably know that, in doing so, they would be in a conflict of interest.

Under section 7, the issue is not who a public office holder may speak with at a fundraising event, but whether that person is given preferential treatment after the fact. Section 7 is problematic, however, because it’s so limited in scope. It does not prohibit all preferential treatment, only preferential treatment based on the identity of the person who makes the intervention. I have always wondered why it couldn’t just be preferential treatment.

Sections 8 and 9 prohibit public office holders from using insider information to improperly further or seek to improperly further a donor’s private interests, and from seeking to influence a decision in order to do that.

On several occasions I have recommended strengthening the fundraising provision of the act, for example, by putting in place a more stringent rule for ministers and parliamentary secretaries. I even went so far as to say in my 2012-2013 annual report that I could support an absolute prohibition on ministers and parliamentary secretaries attending fundraising events, if the government wanted to go that far.

In The Glover Report, I recommended amending the act to include a contravention for ministers or parliamentary secretaries who knew or should have known that funds were being solicited by their staff in circumstances that would place them in a conflict of interest and who failed to take appropriate action. I’ve also referred on several occasions to the Prime Minister’s accountability document, which has since been updated and renamed Open and Accountable Government. Some of its provisions could be added to the act.

I have suggested as well that the House of Commons consider implementing a separate code of conduct to address the political conduct of members and their staff, including political fundraising.

As amendments to the regimes that I administer are not the issue currently before the committee, I mention these recommendations only as a context and to establish my long-standing general position that fundraising rules should be tightened.

● (1210)

[*Translation*]

The amendments to the Canada Elections Act proposed by Bill C-50 promote transparency with respect to fundraising activities.

I think it is a positive measure that would benefit our electoral process. It will also help to apply the Conflict of Interest Act more effectively. The easier access to the names and addresses of participants in these fundraising activities could be useful to the office if it has to investigate an allegation that a participant in such an activity obtained an advantage from a minister.

That ends my opening remarks. I will be pleased to answer your questions.

**The Chair:** Thank you, Ms. Dawson.

Ms. Shepherd, the floor is yours.

**Ms. Karen Shepherd (Commissioner of Lobbying, Office of the Commissioner of Lobbying):** Good afternoon, Mr. Chair and members of the committee.

I am pleased to be here today to participate in your study of Bill C-50, An Act to amend the Canada Elections Act (political financing).

I am accompanied by Bruce Bergen, senior counsel.

As Commissioner of Lobbying, my role is to administer the Lobbying Act, which makes lobbying activities transparent, and to develop and enforce the Lobbyists' Code of Conduct, which sets out standards of behaviour for lobbyists. Together, the act and the code ensure that Canadians have confidence in the integrity of decisions taken by their government.

Lobbying is a legitimate activity.

[English]

Having been involved in the making of public policy for many years, I know that exposure to a range of viewpoints is essential to effective policy-making and better decision-making by governments. However, it is important that when lobbyists communicate with public office holders, they do so transparently and with high ethical standards.

My mandate, as outlined in the act, is threefold: maintain the Registry of Lobbyists, which contains and makes public the information disclosed by lobbyists; develop and implement educational programs to foster public awareness of the requirements of the Lobbying Act and the Lobbyists' Code of Conduct; and ensure compliance with the act and the code.

The Lobbyists' Code of Conduct complements the Lobbying Act in enhancing public confidence in government decision-making.

Following a two-year consultation process, a new Lobbyists' Code of Conduct came into force in December 2015. The new code addresses the issue of conflict of interest in more detail to reflect a 2009 Federal Court of Appeal decision that included the concept of apparent conflicts of interest. These new and simplified rules help lobbyists avoid placing public office holders in a real or apparent conflict of interest, specifically when they share close relationships with public office holders whom they have engaged in political activities, and when it comes to the provision of gifts to public office holders.

●(1215)

[Translation]

Given the committee's current study, I would like to discuss rule 9 of the code that deals with political activities.

Some political activities could create a sense of obligation. While we live in a democratic country where both political activities and lobbying are legitimate, lobbyists must ensure that no real or apparent conflict of interest is created when these two activities intersect.

[English]

The code explicitly prohibits lobbyists from lobbying members of Parliament and ministers when they have carried out political activities that could reasonably be seen to create a sense of obligation. These activities include organizing a fundraising campaign or event, writing speeches, preparing candidates for debates, and serving on the executive of an electoral district association. The rule extends to a prohibition on lobbying public office holders who work in a minister's or MP's office. By contrast, political activities such as making contributions under the Canada Elections Act, putting a sign on a lawn, being a member of an electoral district association, or attending fundraising events do not create the sense of obligation that would result in the appearance of a conflict of interest.

When the code was published, I released guidance to help lobbyists understand how I intend to apply the rules relating to conflict of interest. My guidance encourages lobbyists to ask themselves the following question when considering political activities: would a reasonable person look at my political activities and consider that they created a sense of obligation on the part of any individual seeking or holding a public office? If the answer is "yes", then any related lobbying activities risk creating a conflict of interest for that individual and should not be undertaken.

[Translation]

In summary, while I do not regulate political activities, I believe that legislation such as the Lobbying Act, the Canada Elections Act, the Conflict of Interest Act, and the codes which exist for lobbyists and members of Parliament contribute to the confidence Canadians can have in the integrity of the government's decisions.

Mr. Chair, this concludes my remarks. I am now pleased to answer any questions you or the committee members may have.

**The Chair:** Thank you very much.

We will go to Mr. Di Iorio.

Mr. Di Iorio, you have the floor for seven minutes.

**Mr. Nicola Di Iorio (Saint-Léonard—Saint-Michel, Lib.):** Thank you, Mr. Chair.

My question is for Ms. Dawson.

Ms. Dawson, as commissioner, do you make decisions when complaints are made to you?

**Ms. Mary Dawson:** Pardon? I didn't understand the question.

**Mr. Nicola Di Iorio:** As commissioner, when a complaint is made to your office, you make a decision. Is that correct?

**Ms. Mary Dawson:** I will respond to complaints if they are valid. So I respond to the person who made the complaint. If I believe there is a real problem, I conduct an investigation.

[English]

**Mr. Nicola Di Iorio:** I will ask my questions in English for the sake of brevity.

**Ms. Mary Dawson:** Okay.

**Mr. Nicola Di Iorio:** When you refer to reports, are those actually decisions you had to render?

**Ms. Mary Dawson:** Sorry, when I refer to reports—

**Mr. Nicola Di Iorio:** In your document, when you refer to reports, are those decisions that you rendered?

**Ms. Mary Dawson:** Yes. I'm not sure where I referred to it, but they're reports of either an examination or an inquiry or an annual report.

**Mr. Nicola Di Iorio:** They are reports. You called them reports. That is the title you give them.

**Ms. Mary Dawson:** Yes.

**Mr. Nicola Di Iorio:** Are those reports subject to appeal?

**Ms. Mary Dawson:** They are potentially subject to judicial review on certain limited grounds, like due process.

**Mr. Nicola Di Iorio:** Yes, so it's much more complicated than—

**Ms. Mary Dawson:** Yes, you go to the Federal Court and it's a judicial review.

**Mr. Nicola Di Iorio:** Is your office audited? Are your administrative practices, so your managerial practices, the way MPs are treated, the time to respond and everything, audited?

**Ms. Mary Dawson:** We report on that, but it's not specifically audited. We have people auditing our financial management and that sort of thing.

**Mr. Nicola Di Iorio:** Are you, as commissioner, supervised by anybody?

**Ms. Mary Dawson:** Do I supervise what?

• (1220)

**Mr. Nicola Di Iorio:** No, are you, as the commissioner, supervised by anybody?

**Ms. Mary Dawson:** Parliament.

**Mr. Nicola Di Iorio:** Parliament. When you refer here to potential conflicts of interest, I'd like to know how you see the conflict of interest when somebody makes a donation to any of the members of Parliament here. For instance, some are not even in government, so where would the conflict of interest or the potential apparent conflict of interest be?

**Ms. Mary Dawson:** I alluded to that. I have to go by the rules in my legislation, and there is no rule in the members' code. There is a rule in the act, which says that a minister is not allowed to personally solicit funds, and so I've always said it's a very limited rule in the act.

**Mr. Nicola Di Iorio:** Who is not personally—

**Ms. Mary Dawson:** The minister cannot, nor can the parliamentary secretary—a public office holder generally—solicit, personally, funds if doing so would put him or her in a conflict of interest.

Okay, that's the only rule I have.

**Mr. Nicola Di Iorio:** Again, it doesn't answer the question, because the answer is “if” it would put him in a conflict of interest. Conflict is not assumed. It would have to be demonstrated.

**Ms. Mary Dawson:** Yes, that's right. There is no rule against—

**Mr. Nicola Di Iorio:** It has to be one interest on one side and another interest on the other side, and they have to be opposing interests. You can't serve both. That's when there is a conflict.

**Ms. Mary Dawson:** That's right. The conflict would be in the minister—no, I'm sorry. There is no conflict rule on that. Let me just think. I'm sorry, I've confused myself.

It's in section 16, which says no public officer shall personally solicit funds from a person if that would place the public officer holder in a conflict of interest. So that would mean if he was looking for something from the person from whom he was soliciting funds.

**Mr. Nicola Di Iorio:** Exactly.

The witness who testified before you referred to the situation in Quebec and said that in Quebec the simple fact of soliciting funds is poorly perceived. The population reacts very negatively to that.

Surely you will agree with me that this doesn't serve democracy well, that poor perception.

**Ms. Mary Dawson:** No. You're right, that's why I've gone so far on occasion as to say you might want to put a rule that says ministers and parliamentary secretaries per se should not solicit funds.

**Mr. Nicola Di Iorio:** Again, I would have thought the opposite, because this is democracy in play, and our model of democracy is one in which individuals get up and decide to go into public service. They decide to set aside their careers, to ask their families to make sacrifices, to not see their friends, and to say, I will devote myself to the public service of my country, but I need resources because I need to be known, and I'm competing with other individuals who also want to be known and want to attract attention, and I need to raise funds.

**Ms. Mary Dawson:** Right.

**Mr. Nicola Di Iorio:** Where is any attention paid to that basic function of democracy?

**Ms. Mary Dawson:** That's the converse argument, and it's a matter of finding a balance there. I don't advocate that they not be allowed to fund; I just say that's one way one could go. The fact of the matter is the old system that used to exist was that parties were funded to some extent. That doesn't exist any more, so there is a greater need for fundraising, and I hear your point.

**Mr. Nicola Di Iorio:** You would agree with me that approaching an individual, a fellow citizen, and asking them whether they believe in the cause and the principles that I want to defend in the institution that represents our democracy, and, do whether they believe it so strongly that they're willing to materially support me in that, because I'm going to need material resources—

**Ms. Mary Dawson:** Yes, well, the only problem is that if there's some kind of a thing that.... As I said in my introductory remarks, the problem under my act and my regime arises after the fact, usually. If you've gone somewhere and received funding directly from somebody, and they come to your office two months later and say, "Listen, I need a grant", for something or other, that's where the problems arise. They happen with my act after the fact, but there's nothing inherently evil about soliciting funds for your political party.

• (1225)

**Mr. Nicola Di Iorio:** You agree with me, but you have individuals who come in and say that they're going to be preaching on Sunday, and they are going to mention your name and say that you're the holiest person in this country and then a thousand persons will be convinced to vote for you. That's not reported, and then they come and ask for a grant the next week.

**Ms. Mary Dawson:** Well, it's a matter of degree, but that's not covered in my act at the moment, so I haven't had to worry about it.

**Voices:** Oh, oh!

**Mr. Nicola Di Iorio:** My point is this. By adding all of these ad hoc requests, such as those that you've outlined, aren't we suffocating the access for everybody, for every regular citizen? Now we have staff and we can deal with these complex reports, but if we can't deal with this.... If somebody wants to run as an independent, what are his chances?

**Ms. Mary Dawson:** Well, I don't know what his chances are. Really, I'm not an expert in politics, frankly, and—

**Mr. Nicola Di Iorio:** I'm frankly surprised to hear that. Your boss is Parliament.

**The Chair:** Okay.

The time is up for this round. We'll now go to Mr. Richards.

**Mr. Blake Richards (Banff—Airdrie, CPC):** Thanks, Mr. Chair.

I appreciate both of you taking the time to be here today. I have a couple of different questions. I'll start, though, with this. When we look at this legislation, how we arrived here, and why we're here, it all boils down to this: we have a Prime Minister who essentially was attending these events for which there was a cash-for-access type of set-up.

You mentioned, in your opening remarks, I believe, Ms. Dawson, that you've had a number of complaints about those fundraisers, so maybe I'll start this way: do you know how many complaints you've had about those activities?

**Ms. Mary Dawson:** Oh, gosh, I don't know. It's not a number in the thousands or anything, but I do get letters from people from time to time, or calls.

**Mr. Blake Richards:** It's not in the thousands, but has it been dozens or...?

**Ms. Mary Dawson:** Over the last five or 10 years, you mean?

**Mr. Blake Richards:** I'm saying in the last couple of years.

**Ms. Mary Dawson:** In the last couple of years? Oh, I don't know...maybe 20.

**Mr. Blake Richards:** About 20 different complaints or in that neighbourhood? Okay. That gives us a pretty good idea.

Obviously the reason you would have received so many complaints is that this is something that I think has been pretty prevalent. This Prime Minister has put himself in these positions.

My sense is that had he followed the provisions that he has in his own "Open and Accountable Government" document, we probably wouldn't have been in a position where we would see those kinds of situations; you wouldn't have received the number of complaints you've received, and therefore, maybe, for this legislation, which is their way of trying to put themselves out of the heat they got into over that, we wouldn't even be having this conversation today.

I want to quote from that "Open and Accountable Government" document. It says:

Ministers and Parliamentary Secretaries must avoid conflict of interest, the appearance of conflict of interest and situations that have the potential to involve conflicts of interest.

**It also says:** Ministers and Parliamentary Secretaries must ensure that political fundraising activities or considerations do not affect, or appear to affect, the exercise of their official duties or the access of individuals or organizations to government.

There should be no preferential access to government, or appearance of preferential access, accorded to individuals or organizations because they have made financial contributions to politicians and political parties.

There should be no singling out, or appearance of singling out, of individuals or organizations as targets of political fundraising because they have official dealings with Ministers and Parliamentary Secretaries, or their staff or departments.

I don't think the bill we have before us really does anything to prevent these types of cash-for-access fundraisers by either the Prime Minister or his cabinet ministers, but had the Prime Minister and his ministers followed the advice in their own document, "Open and Accountable Government", would you say that we probably wouldn't be in the position where this legislation would be brought forward today, and you probably wouldn't have received the number of complaints you received? Would you say that's a fair statement?

**Ms. Mary Dawson:** I'm not here to cast stones at anybody. What I am concerned about is applying my own act.

I have certainly made the suggestion that there are some aspects of the accountability guide that could go into my act, and then it would be enforced by my office. But I do not comment on other people's enforcement.

**Mr. Blake Richards:** Fair enough, but from the comments you've made, obviously you're indicating that you feel that if you were able to enforce it, that would prevent some of these kinds of situations. I guess that gives us the answer to that question: that had they followed those guidelines, that would probably have prevented those kinds of things.

I'd like to ask another question that's been raised a number of times at this committee. I don't know whether or not you follow this at all, but originally my colleague Mr. Nater raised it. It's this idea of the five-day notice period. Essentially what we have now is a situation in which, with this legislation, it would be possible for the Prime Minister to decide, let's say 12 hours or a few hours before the event, that he's going to attend, even though it has been advertised otherwise. Would you say that is something that might be a kind of wink-wink situation in which everyone knows he's attending but it's not actually advertised, so therefore it limits the ability for him to be accountable? Would you say it would be best that after that notice period it's not possible for the Prime Minister or a minister or any other public office holder who is under this to just suddenly show up at the event? Should that be prevented? What are your thoughts on that?

Maybe you both have thoughts on that; I don't know.

• (1230)

**Ms. Mary Dawson:** Frankly, I can't comment on the policy of this proposed legislation. I think this proposed legislation is going a long way to cover some of the issues. I'm a great believer in transparency and in making things public.

Really, with respect to the details of exactly what ought to be in here, I don't think I'm here to comment on that, per se.

**Mr. Blake Richards:** Okay. I thought that's what we were discussing.

Do you have any comments, Ms. Shepherd, or thoughts on that?

**Ms. Karen Shepherd:** No, I would agree with Commissioner Dawson in that I think the bill has done something in terms of improving transparency by, as I understand it, having the attendees who purchase a ticket, if it's over \$200, be listed.

I have one thing for the committee's consideration. I've noticed that this focuses on the Prime Minister and ministers attending these regulated fundraising events, but it doesn't cover them during the election period. Maybe something for consideration is the fact that the Prime Minister and the ministers maintain their status during an election period, so if there is some reason the committee has thought of for having those types of events regulated, then maybe that's something for consideration.

**Mr. Blake Richards:** Okay. Thank you for that.

With regard to the idea I spoke to already—cash for access—under the act you are responsible for now, is that something that is supposed to be regulated, so that you shouldn't be seeing cash-for-access types of fundraisers?

**Ms. Mary Dawson:** It's only regulated if there is a conflict of interest situation.

**Mr. Blake Richards:** It is if there is a conflict of interest. Okay.

**The Chair:** That's your time.

**Mr. Blake Richards:** That's really time?

**The Chair:** You're having fun.

Mr. Christopherson.

**Mr. David Christopherson:** Thank you, Chair.

Thank you, both, for your attendance today. I appreciate it.

In addition to having a debate about the minutiae of the bill, one of the things that have cropped up during these hearings is whether or not we're just tinkering around the edges and making any real change versus making a realistic, dramatic change. We've had people come in and make the case that we're not even dealing with the real issue. One of the real issues we ought to be looking at is the contribution threshold itself. That's come up a number of times.

As someone who is a fan of what former Prime Minister Chrétien did in terms of bringing in the public election financing—which I thought, next to keeping us out of Iraq, was his best move as a prime minister—I was heartbroken in the last Parliament when we saw it completely removed. I leave that for you to comment on as I'm asking you to paint a picture of the larger issue. But on the contribution of \$1,550, is that part of our problem or not, in your opinion? There have been those who have come in and said that what we should be doing federally is more like what they're doing in Quebec. It's down around \$100, and it makes it easier for everybody to pay, and then a lot of these other issues go away. That's the argument. There are others who say, “No, up to \$1,550 for a middle-class person is a reasonable amount”, and then we have to bring in all these checks and balances.

What are your thoughts on those two approaches to this? It keeps coming up as we're going through this.

Thank you.

• (1235)

**Ms. Mary Dawson:** I don't think Canada is doing too badly in comparison with other jurisdictions in having \$1,500. The various limits are all over the board. It struck me that \$1,500 wasn't terrible. It doesn't trouble me. I reiterate that it's too bad there isn't a general funding of the various parties, but there it is.

**Mr. David Christopherson:** Ms. Shepherd.

**Ms. Karen Shepherd:** I don't have an opinion either in terms of the amount. I think that is up to Parliament to decide. My concern is with regulating the lobbyists.

**Mr. David Christopherson:** That's fair enough. I wanted to give you an equal opportunity to make a comment.



The issue of covering parliamentary secretaries has come up before, and you have commented on that, Ms. Dawson. It has also come up, though, especially for those of us who have been ministers and understand what the decision-making process is that you go through. In that regard, your parliamentary secretaries have great influence, but also your chiefs of staff have incredible influence. Senior policy advisers have, again, up to or perhaps exceeding that level of influence. None of that is mentioned here.

Ms. Dawson, you mentioned you would like to see parliamentary secretaries included. Would you be good enough to comment on that a little further? Do you also think it advisable for us to take a look at expanding that to chiefs of staff and senior policy advisers, etc.?

**Ms. Mary Dawson:** I mused about actually adding the senior policy advisers into that group when I mentioned parliamentary secretaries, but there is a logical problem there. They are part of the political process, but they are not the politician who is getting elected, so I'm not sure they are sufficiently close to it.

I recognize, though, that those people are probably more heavily lobbied in some cases than are ministers or parliamentary secretaries themselves. We need to have very good rules generally around stakeholders going to those people. I'm not sure it should be done through the Elections Act. However, I did kind of muse about those people, and wondered whether I should say anything about them.

**Mr. David Christopherson:** Thank you.

Ms. Shepherd

**Ms. Karen Shepherd:** I have nothing.

**Mr. David Christopherson:** Again, I just want to make sure you always have an opportunity.

How's my time, Mr. Chair?

**The Chair:** You have almost three minutes.

**Mr. David Christopherson:** The five days—and again to Mr. Nater, who raised this—in and of itself has raised a couple of issues. One is that there's nothing that prohibits anyone who's not on that list five days before from suddenly showing up. The whole idea is to be transparent about things, and one of the concerns raised was that even though you're not on the list, you could still show up, and the word could be put out that the Minister of Finance is coming or the Prime Minister is going to swing by—wink wink, nudge nudge—and you want to make sure you get down there.

We're getting into the minutiae of the bill, and I'll accept it if you say that I'm getting too far into the weeds and that it's not my domain. I get that. However, this is where we are, and this is what we're dealing with.

We can argue that the five days is too long, and that will come up again, but one of the solutions that's been suggested is that if you're not on that list five days before, you just plain can't go to the event. It's been brought up that somebody could get sick three days before, and it would make sense that you could substitute for them.

Well, let me tell you, in the world of power politics there is a world of difference—and no offence to anyone—between having booked the minister of culture who is now sick, and, by the way, the Minister of Finance can make it.

What are your thoughts on that?

**Ms. Mary Dawson:** I don't know. I think you're right. You're into the technical details. There's a loophole there. The question is how far you go to fill a loophole. I can't say any more.

**Mr. David Christopherson:** We sort of have to stay at 30,000 feet to make sure you are relevant to our discussion.

**Ms. Mary Dawson:** I haven't studied this bill in great detail. I have been quite busy lately. I have focused on how my act relates to it. Certainly, it's an excellent direction that it's going in.

• (1240)

**Mr. David Christopherson:** Do you see this as a big deal or a little deal? You say it's going in the right direction. Is it a substantive step? Is it a baby step? How would you characterize the bill itself in terms of the issues you are concerned with, and how it meets some of those concerns?

**Ms. Mary Dawson:** It goes quite a good way, I think, because it puts things in the public domain. It allows me to have access to some information if I'm dealing with some kind of a problem. I use the lobbying register a lot for that purpose as well. There are interfaces in all of these public reports, so I think it's a good initiative.

**Mr. David Christopherson:** Okay. Good.

Thanks.

[Translation]

**The Chair:** Thank you, Mr. Christopherson.

Ms. Sahota, you have the floor.

[English]

**Ms. Ruby Sahota (Brampton North, Lib.):** I'll carry on from what you were speaking about.

You mentioned in your introduction and again just now that your main role is to make sure that everyone is following the Conflict of Interest Act. You were saying that Bill C-50 is a small piece of legislation. There are a whole bunch of different regulations and other things that the minister is hoping to bring forward as well.

How much does this small piece of legislation, which is trying to create a little bit more transparency, actually help you to do your job in the administration of the Conflict of Interest Act?

**Ms. Mary Dawson:** Where this comes up for me more often is after the fact. It's not whether they attended the fundraiser or not. If somebody comes in looking for something from them two months later, that's when it's very useful for me to know what their connection is with that person and whether that person has given them money. My main fundraising provision is quite deficient basically. It's the relationship between the minister or whoever and the person who's provided funding when that person is looking for special treatment of one sort or another.

**Ms. Ruby Sahota:** That's probably a large portion of the types of complaints and allegations you investigate when you look at what is being traded and where the conflict exists. Now you can put together the two pieces and find out if there truly was some interaction that may have led to that.

**Ms. Mary Dawson:** That's right. It's one check to see what the relationship is with that person.

**Ms. Ruby Sahota:** It's a good step forward, then?

**Ms. Mary Dawson:** That's right.

**Ms. Ruby Sahota:** Okay.

Previously, the witnesses who were before us mentioned—and you mentioned—that this act could potentially cover other people. Chiefs of staff were mentioned, and PSs were just mentioned by you. Our previous witness mentioned that covering the leaders of opposition parties is a good idea because, especially when we're in minority governments, we're often having a swing back and forth every 18 months, and you don't know who is going to hold power in the very near future.

Do you think it should extend to critics, the shadow cabinet, as well? How far should this go?

**Ms. Mary Dawson:** I think it's probably gone where it should go.

I like the leaders idea, because it makes some sort of a fair balance between the two sides, so to speak.

I don't know how far down it should go.

**Ms. Ruby Sahota:** Okay.

You gave some testimony in which you said you had thought about the idea of it applying to all PSs, ministers, and maybe all parliamentarians—not doing these types of events. I heard that, but then you kind of said, “Well, I'm not sure about that thought; it's just something that's crossed my mind.”

I think back to the testimony we had just prior to yours. Because of how we function in our democracy—the way it is set up, practically speaking—parties do need to raise funds. It's not just parties; it's us as individual members. Parliamentary secretaries and ministers, when I think about it, are responsible for their own ridings, not just for their political cabinet portfolios. They're responsible for their own ridings, and they have to raise funds for their riding associations in order to even become an MP. You can't be in cabinet if you're not an MP, right?

Going to that fundamental level, I feel that at some point we're trying to solve some problems. As the previous witness said before that, there may be some perverse consequences that we may end up facing if we take this too far. How are they supposed to do their civic duty, to take leadership and run in a campaign, if they're a cabinet minister, but they can't raise funds in their own riding for their own riding association?

• (1245)

**Ms. Mary Dawson:** That's a traditional problem, because the ministers have two roles.

**Ms. Ruby Sahota:** How do we create balance? How do we make sure that they can become an MP again and thus be a cabinet minister regardless of—

**Ms. Mary Dawson:** Under my legislation, I have to look at the distinction sometimes as to whether they're acting as a member or as a minister. That makes a difference in some of the decisions I have to make.

**Ms. Ruby Sahota:** As far as this legislation goes with regard to listing the people in attendance, you're more easily able to connect the dots as to whether this is a constituent who really has nothing to do with the minister's portfolio whatsoever and is just doing a small fundraiser for his or her own riding or a lobbyist or someone with a great interest in the minister's portfolio. Do you agree?

**Ms. Mary Dawson:** It all comes down to the facts that you're faced with in a particular situation.

**Ms. Ruby Sahota:** A couple of meetings ago a suggestion was made that this should also apply to people under 18. The witness went so far as to suggest that minors who were seven or eight years old should be listed as having been brought to a political party. I think that could inhibit the ability of a parent to perhaps be civically active and attend a fundraiser if they have parental duties at the same time and perhaps need to take their children with them to one of the events. They may hesitate in the future to go to that event because they don't want their children, who have no real desire to be there or no political motivation to be there, listed on these lists. Do you think 18 is the right age for this legislation to hit, or do you think it should be older or younger?

**Ms. Mary Dawson:** Eighteen is quite a common cut-off. I think that's as good a cut-off as any.

**Ms. Ruby Sahota:** Okay.

Do I have any more minutes?

**The Chair:** You have ten seconds.

**Ms. Ruby Sahota:** Quickly, you mentioned that there had been various complaints in the last two years. How many complaints were there in the previous administration, if you have some kind of idea, because I see that you've listed various reports here that you had to undertake because of conflict of interest rules broken by previous ministers, and you had to go through full investigations. Where there not numerous complaints at that time as well?

**Ms. Mary Dawson:** When I said 20, I was probably overspeaking the amount. More often, we'd get letters that weren't actual complaints; they were just griping. That was more common than an actual request of any kind. We either get requests to investigate something, or if there's nothing to investigate under the act—

**Ms. Ruby Sahota:** And this happens throughout many administrations?

**The Chair:** That's time. Thank you.

**Ms. Mary Dawson:** It got more attention of late, but as I said, I've had cases involving these kinds of issues since way back.

**The Chair:** Thank you very much.

We'll now go to Mr. Nater.

**Mr. John Nater:** Thank you, Mr. Chair.

Thank you to both of the commissioners for joining us this afternoon.

I'll begin by thanking both of you for your service in your positions. I know, Ms. Dawson, you're over a decade in your position, and, Ms. Shepherd, over eight years. I want to thank you for that. I know you've both accepted multiple reappointments on a temporary basis. I thank you as well for that.

With both your terms coming to an end, has either of you been consulted on the process for your replacements?

**Ms. Mary Dawson:** No, I haven't.

**Ms. Karen Shepherd:** I'm aware that PCO is running the process, but it's in their hands.

**Mr. John Nater:** There's been no consultation with either of you on the process. Okay, thank you.

Have those reappointments for shorter periods of time affected your ability to undertake studies within both of your jurisdictions, given that you don't know exactly how long your terms may extend, with regard to ongoing studies you may be undertaking?

• (1250)

**Ms. Mary Dawson:** No, I go on as usual.

**Ms. Karen Shepherd:** It's the same answer. The fact is, there is a director of investigations, a high degree of professional staff, and legal counsel sitting with me. Things will continue after I'm gone. No, it hasn't stopped anything.

**Mr. John Nater:** Thank you.

The Open and Accountable Government document has been cited a couple of times, the Prime Minister's document. You made mention, Ms. Dawson, that you don't enforce that. You don't have the jurisdiction to enforce that.

If Parliament were to call on you to enforce that, would your office be in the position to undertake that?

**Ms. Mary Dawson:** We probably would. There may be some parts of it that don't belong in an act like mine, but there are certainly significant sections in there that could go into my act.

I was delighted to see that guide. It came out as a result of one of my reports, I think, in which I said there were some gaps. At least there was an accountability guide established, so some of those rules in there are.... A very important one, for example, is about monitoring what your staff is doing, the issue that you can't set something up directly but have your staff do it. There shouldn't be those sorts of gaps.

So there are parts of it that could go into my act; that is what I've said.

**Mr. John Nater:** The issue of staff is certainly a topic that's come up a number of times. I know Mr. Christopherson has made mention of that as well, and I think it's worthwhile.

I want to ask Ms. Shepherd a question as well.

One of our previous witnesses expressed concerns that this type of legislation would almost create a duplicate lobbyist registry, or a

registry similar to a lobbyist registry, in the sense that Elections Canada is now going to be keeping a registry of basically any participants in political fundraisers.

Coming from the lobbyist side of things, do you see some concerns with that type of direction that may happen at Elections Canada, about having almost a second registry for political participants at events?

**Ms. Karen Shepherd:** To be honest, I'm not sure about the duplication of the list. What I'm aware of, when I look at the particulars of this bill, is the fact that anyone who purchased a ticket for which the fee was \$200 would be listed. At least, from my point of view, it would be another tool that my investigators would use in looking at whether the act or the code had been breached.

**Mr. John Nater:** I should point out that, even though neither of your jurisdictions—for lack of a better word—is directly touched by this legislation, it would be something you would make use of in conducting an investigation, whether from a conflict of interest or a lobbyist standpoint. It is an information tool.

**Ms. Mary Dawson:** Yes, it's useful.

**Ms. Karen Shepherd:** It would be useful.

**The Chair:** You have finished.

**Mr. John Nater:** Yes.

**The Chair:** Ms. Sahota, I understand you're going to share with Ms. Tassi.

**Ms. Ruby Sahota:** Yes.

I just want to go back into the last bit, and then I'll hand it over to my colleague here.

Because your presentation at the beginning looked at these specific reports, I was wondering if you could shed some more light. I'm not that familiar with the Raitt, Dykstra, and Glover reports. How do those relate to where we should be going with this legislation?

**Ms. Mary Dawson:** I think none of those reports fit within section 16, so all three of them were found not to have contravened.

With respect to the questions that were raised, the staff had done some things in one of them that the minister didn't know about, so she wasn't personally involved and she hadn't directed them to do the things, so she wasn't caught—

**Ms. Ruby Sahota:** Are you talking about the taking of gifts?

**Ms. Mary Dawson:** No, it had to do with fundraising.

**Ms. Ruby Sahota:** Okay.

**Ms. Mary Dawson:** All three of those had to do with fundraising.

In another one, it was alleged that somebody had been given by Rogers the use of its facilities to have a party but, in fact, they had paid the normal going price. Quite often, when you look into these investigations, you find there's a rationale behind them.

What was the third one?

•(1255)

**Ms. Karen Shepherd:** It was Glover.

**Ms. Mary Dawson:** With that one, again her staff had organized something. It was awful. They had the whole heritage community in Winnipeg being invited to a thing. She had been invited to go to this house and hadn't been told who had been invited. That was her riding association that did that, so there are other people who can organize things.

If there was a rule, for example, in my act that said, "You have to watch what your guys are doing", it might have made a difference. That's all.

**Ms. Ruby Sahota:** Okay. I'm going to pass it over to my colleague, because she has a few questions to ask as well.

**Ms. Filomena Tassi:** Thank you.

Ms. Shepherd, I have two questions for you.

First off, in all these things, you're trying to find the balance, so you want to try to make sure that what you're coming through with is fair and reasonable and, at the same time, improving the current situation, right? Do you feel that Bill C-50 hits the right balance in terms of opening up events to media and allowing lobbyists to attend by ensuring that their names are recorded? In terms of the requirements, as they apply to lobbyists, do you feel the legislation is fair and has the right balance?

**Ms. Karen Shepherd:** I'm not regulating the political activities. I'm regulating whether.... As per the lobbyist code of conduct, which has a rule for lobbyists, as I said it in my opening remarks, I would be encouraging lobbyists to always ask themselves whether performing political activities will create a sense of obligation if they later lobby a particular individual.

**Ms. Filomena Tassi:** Okay. I know the answer to this question, but I want the answer on the record. Under media questioning, Andrew Scheer stated that, unlike the Prime Minister, he's not a public office holder. I would just like you to confirm today that all MPs, including Mr. Scheer, are designated public office holders. Can you confirm that?

**Ms. Karen Shepherd:** Every elected official in both Houses of Parliament is a public office holder.

**Ms. Filomena Tassi:** Thank you.

**Ms. Karen Shepherd:** In fact, they're designated public office holders.

**Ms. Filomena Tassi:** Thank you.

Ms. Dawson, you have a great amount of experience in this area. I'm wondering about the \$200 amount, anything over \$200. We know we've done that so it lines up with respect to disclosing under the Canada Elections Act, but do you think that the just over \$200 amount is the right amount for Bill C-50? Do you think we got that amount right in terms of the requirement?

**Ms. Mary Dawson:** Again, you know, it's a standard amount that's used. You may or may not have noticed in the code that we have the gift reporting, for example, down from \$500 to \$200. It seems to be a standard amount that's quite broadly accepted.

**Ms. Filomena Tassi:** So you're satisfied with that.

With respect to transparency, you have said that you believe that this will help increase transparency and will also assist you with respect to your overseeing and implementing the Conflict of Interest Act. Then you also said that it would be helpful now so that when a conflict of interest allegation comes up, you'd now, through this legislation, have the ability to go back and access lists.

What would you do if you didn't have that list? What sort of groundwork would you have to do if the list were not there for you?

**Ms. Mary Dawson:** I would check the lobbying registry. The group that I look after is a lot broader than lobbying. They are all stakeholders. You don't have to be lobbyists to be caught by these kinds of rules. I would just do what I could to find out. I use whatever is available. The people who register under my act, the people who are disclosing information, disclose lots of information to me, too, but sometimes I won't know about something.

**Ms. Filomena Tassi:** I don't think it's an understatement to say that this legislation would help you significantly in terms of the research that you would have to do, because you'd have one place where you could go to find out who was there, and that would help you tremendously in terms of your investigation and the resources that you currently have to use to do that due diligence. Is that correct?

**Ms. Mary Dawson:** Yes, and I wouldn't have access in some cases. I wouldn't be able to find a way of finding out. It would be a standard tool that we would use.

**Ms. Filomena Tassi:** Thank you.

**The Chair:** Thank you for coming. We know you both have great experience. We also appreciate your public service for the last many years. I think it's been exemplary. We'll just suspend for a couple of minutes while our next witness comes.

•(1255)

\_\_\_\_\_ (Pause) \_\_\_\_\_

•(1300)

**The Chair:** Once again, welcome back to the 73rd meeting of the Standing Committee of Procedure and House Affairs on our study of Bill C-50, an Act to amend the Canada Elections Act (political financing).

We are pleased to have with us Greg Essensa, Chief Electoral Officer of Ontario.

Thank you for being here. You are probably our witness in most demand, so we are delighted that we could finally get you here. There are lots of questions about the good work that's been done in Ontario. I think we're all looking forward to hearing from you. You have some time for opening comments, if you'd like, and then we'll go around to some questions.

**Mr. Greg Essensa (Chief Electoral Officer, Elections Ontario):**

I would like to begin by thanking the Standing Committee on Procedure and House Affairs for inviting me to provide my observations on Bill C-50, an act to amend the Canada Elections Act with respect to political financing. I welcome the chance to offer my insights and advice on the electoral process to you. When I provide comments to a committee of the House of Commons, I am very aware that I am addressing Canada's lawmakers.

Today, I would like to briefly address these topics: one, creating a fair and level playing field; two, Ontario's election finance system; and three, the provisions of this bill.

The first observation I'd like to make is on the importance of maintaining a fair and level playing field. All political actors require financial resources, and money is an essential element in politics. Chief electoral officers of Canada, from the past and present, speak of the special role parties play in the democratic process. They also speak of the need to strike the right balance in creating a funding formula that sustains parties but does not unfairly enrich them or, conversely, leave them beholden to any one contribution source.

The concept of the level playing field is central to our democracy. It is also a unifying principle of election administration; it ties together the voting process and the campaign process. This is how it ties them together. Election outcomes are supposed to reflect the genuine will of the people. Political finance rules are supposed to ensure that parties have equal opportunity to raise and spend funds to advance their message and win votes. Electoral outcomes should not be distorted because of unequal opportunities to influence the electorate.

Academics and judges have written about this at length. As an election administrator, I see that it boils down to one fundamental proposition: All who enter the electoral arena should be treated equally. The debate, then, becomes what rules are rational, necessary, and practical to have in place. In other words, we need to strike the right balance between transparency and participation in the electoral process.

I would now like to provide some insight into Ontario's election finance regime.

Last year, while Ontario was undergoing significant electoral reform, I was asked and agreed to serve as an adviser to the Standing Committee on General Government. As the Chief Electoral Officer, I am an independent officer of the Legislative Assembly. My mandate includes overseeing the registration and financial reporting requirements of all parties and candidates, not just those represented in the Legislative Assembly. You might say that I am the referee, and I referee the rules of the political game in provincial elections. I saw my role as helping ensure there was a level playing field on which all compete.

Ontario took an extensive process in consulting the public. Throughout my time as an adviser, I had the opportunity to travel the province and listen to deputants speak about the relationship between money and politics. I also appeared three times in front of the committee to provide my thoughts on the provisions in the bill.

In following the debate on the bill prior to the consultation process, it was evident that there was a strong desire to reform campaign finances and to put an end to what was termed "cash for access". Ontario made significant reforms to contribution limits.

The first was a ban on corporate and trade union donations. Only individuals who are residents of Ontario can now make contributions to political parties, constituency associations, candidate campaigns, leadership contestants, and nomination contestants.

The second significant change was the amount an individual could contribute annually to political parties. Prior to the amendments, individuals could contribute up to \$9,975 annually, and up to an additional \$9,975 for each campaign period. This meant that, in a year when we had two by-elections, contributors were able to contribute up to \$29,925 to a party.

Under the bill now, the contribution limit is \$1,200 annually to a political party, \$1,200 annually to constituency associations and nomination contestants, and \$1,200 annually to a leadership contestant, totalling an annual contribution limit of \$3,600. No extra amount over the annual limit is allowed, regardless of the number of campaigns.

The next area I would like to address is annual allowances.

Earlier in my remarks, I observed the need to strike the right balance in creating a funding formula that sustains parties but does not unfairly enrich them or leave them beholden to any one contribution source. To that end, Ontario introduced a unique system by providing quarterly allowances to support the activities of political parties and constituency associations. Funding formulas have been developed to determine how much each party or constituency association receives.

● (1305)

While I strongly believe that private and public funding support to political parties is essential, I do not advocate for one model over another, but believe that a funding formula that balances public and private funding is an important component of our democratic system.

Another significant amendment was to fundraising events themselves. Similar to the provisions in Bill C-50, Ontario introduced similar reporting requirements for fundraising events. Parties are also required to inform the public on their website at least seven days in advance that a fundraising event is being held.

Attendance at fundraising events, though, has been significantly reformed in Ontario. Many political actors are now prohibited from attending fundraising events. These range from leaders of registered parties, MPPs, to staff members in the leader's office. As you can see, Ontario has taken a strong approach to amending the election finance system.

What I will put forward for the consideration of this committee, when you are reviewing and amending provisions related to election finance laws, concerns the risk of unintended consequences. Let me give you an example.

While Ontario was amending its fundraising requirements, prohibiting party leaders, MPPs, and nomination contestants from attending fundraising events, they did not make any exceptions for events such as annual general meetings, policy conferences, and similar events. I believe the new fundraising requirements were originally intended to restrict attendance at large fundraising dinners and other such events. However, because of the wording of the act, I believe an unintended consequence of the attendance restrictions applied to party meetings like annual general meetings, for which delegate fees included a contribution portion. I thus wrote to all three party leaders recommending that the Election Finances Act be amended at the earliest opportunity to specifically exempt such events.

I do not believe the attendance provisions were meant to restrict leaders and MPPs from attending events where party policy and party platforms were being debated and decided upon. Generally, I was supportive of most of these changes and found this level of reform appropriate.

I will now turn my attention to the provisions of Bill C-50. In reviewing the provisions of this bill and other bills related to elections, I always ask myself whether the changes protect the integrity of the electoral process, preserves fairness, and promotes transparency.

I have reviewed this bill closely and offer the following observations. The provisions in Bill C-50 are not as strict as those of Ontario's current election finance system. Yet, there are many positive aspects of this bill. I do believe this bill achieves greater transparency by making fundraising events public and adding requirements to report to the Chief Electoral Officer.

I would suggest that the committee, in deliberating these provisions, apply the principle of consistency when regulating political actors. The way the legislation is written, many of these fundraising provisions apply only to leaders, interim leaders, or leadership contestants. I believe it would be an oversight to not give consideration to, for example, members of Parliament or high-ranking political staffers, such as chiefs of staff, when it comes to attendance at fundraising events. Many of them have a level of influence that is important to recognize. Mr. Jean-Pierre Kingsley also raised this when he presented to you on this bill, and I concur with his rationale.

As the committee continues to debate this legislation and additional changes to election finances, I once again remind you to closely examine all provisions of the bill to ensure that unintended consequences do not arise.

I would like to take this opportunity to thank the committee for inviting me to speak and offer my perspectives as Chief Electoral Officer of Ontario. I applaud the work this committee is doing on electoral reform and I would be happy to answer any questions you might have.

● (1310)

**The Chair:** Thank you.

We'll go for the first round to Ms. Tassi.

**Ms. Filomena Tassi:** Thank you for your presentation and for being here today. We look forward to the responses that you're going to give us and the insights, because you come with a great background and experience, having gone through this in Ontario.

I like how you talked about making sure there's a level playing field and you referred to yourself as a referee, because I think that's appropriate. The key, really, is the balance or the transparency and participation. Do you think Bill C-50 gets it right in that regard?

**Mr. Greg Essensa:** I think there are many elements of the bill and provisions that provide much greater transparency, which I'm very supportive of. Having events being publicized five days in advance, I think, provides greater transparency. Reporting who has attended those events to the Chief Electoral Officer and having that information publicized, again promotes greater transparency.

The one area that I would suggest for consideration to enhance the bill would be to provide those same requirements during the electoral event period. That is when Canadians are truly turning their minds toward who they are wishing to choose as their elected representative. I think that for true transparency in the electoral system and our democracy, those types of events during the electoral process should be promoted as well and identified to Elections Canada so it can make the events transparent with regard to when they occurred and who attended.

**Ms. Filomena Tassi:** You're not the first to say that. I note that point with interest.

I suppose when you're looking at a minister, for example, as was mentioned in the previous testimony that was given, essentially they're still in that office although we're in an election. I think the idea there is that in fact they're not carrying out that work. That's why during that period it's suspended. However, we will take note of that input and evidence.

From what I understand, you're going so far as to say that you believe Ontario got it right in applying it to all MPs. Are you suggesting, then, that consideration be given to it being not only fundraising events that have ministers but also fundraising events that hit the \$200 mark, or over \$200, with any MP? Am I hearing that correctly?

**Mr. Greg Essensa:** That would be my testimony, my recommendation. I would base this on some statistical facts that I brought for the committee's consideration.

We have just completed the third quarter of 2017, and we've now done a review of the first three quarters of 2016 versus 2017 from a fundraising perspective. In quarter one, the political parties in the House were down 80% from 2016 to 2017. In quarter two, they were down 30%. In quarter three, they were up 18%. Clearly there is a trend that the political parties, in the machinations of how the political operatives are working, have found a way to reform their fundraising tactics and events such that they still enrich them to the same degree. Yes, it has taken some time. It has taken the first two quarters. However, they certainly now are above or on par with where they were for the third quarter of 2016.

• (1315)

**Ms. Filomena Tassi:** It's not really a matter of trying to circumvent the rules or to work a way around the rules so that you get back to a certain level. Really what we're trying to achieve here is having things open and transparent, so if you are at an event and you have access to someone who's in a position, such as a minister, that is recorded.

You don't think it's going beyond. You think it is actually...

My concern is not so much that the end game is that MPs are able to figure out how to get back to those levels. My goal would be what is more appropriate in striking the balance to ensure that you have transparency and that you have participation, not that you're creating work to go beyond where you need to be going.

**Mr. Greg Essensa:** From my perspective, Ontario has created the right balance. We need to go through a complete electoral cycle to do a complete assessment of that, but I sat on the committee and travelled the province and listened to the concerns that Ontarians raised throughout the deliberations, and there was a greater than average number of deputants who came forward with great concerns about cash for access and were looking for the political body to address those concerns.

We still need to do some further research. After the 2018 electoral cycle and going through one cycle with these reforms, there will be an opportunity for me to report back to the legislative assembly on any other recommendations I might see, based on the outcome of the last three years.

**Ms. Filomena Tassi:** Mr. Chair, how much time do I have?

**The Chair:** You have just under two minutes.

**Ms. Filomena Tassi:** Okay. I'll pass the floor to Ms. Sahota.

**Ms. Ruby Sahota:** I have a question. In terms of what my colleague Ms. Tassi just said about circumventing the rules, I'm thinking that people have access to me as an MP all the time. I make sure that I go back to my riding as much as possible, throughout our riding weeks, and on most Fridays, and anyone who wants an

appointment with me can have one. I rarely say no to anybody. Who's to say they can't write me up a cheque after having an hour-long discussion with me about whatever issue and then donate later on?

Isn't the purpose of these financing and fundraising rules to connect the dots and to figure out who might be gaining advantages from giving donations, rather than just the fact that you can't be in a room with an MP, period, or an MPP in this case, or a minister? To make maybe the Ethics Commissioner's job simpler and to be able to connect those dots, you're not necessarily doing that by just preventing MPs from showing up at these events. What you want to catch is whether there is anything inappropriate happening.

Fundraising, in and of itself, is not a bad activity.

**Mr. Greg Essensa:** I would not disagree with your last statement. I have been a big believer and I articulated three times before the committee in Ontario that I am a big supporter of a balance between private and public funding. I would by no means suggest that we should eliminate the opportunity for political parties, candidates, or political actors to raise funds by those means, but there needs to be a balance.

With respect to your transparency comments, I would suggest that although the political arena has been fraught with some implications of improprieties, I don't believe they are actually there. Among the general populace, what I heard consistently across the province is that there is a perception of there being cash for access events at which wealthy donors get the opportunity to engage with parliamentarians, political actors, and operatives, and that their interests are being far more pushed forward because of that undue influence, because of the money they can bring to the table.

**The Chair:** Thank you, Ms. Sahota.

Mr. Nater.

• (1320)

**Mr. John Nater:** Thank you, Mr. Chair.

Thank you, Mr. Essensa, for joining us this afternoon. It's always intriguing to hear from different jurisdictions. I appreciate this.

I want to follow up about the process that was undertaken by the provincial legislature. I was intrigued by the role you played. It sounded as though you were actively involved in the drafting of the legislation and as an expert adviser to the committee on general government.

Was it a conscious decision by the provincial government that the Chief Electoral Officer would be engaged throughout the process of drafting this legislation?

**Mr. Greg Essensa:** I was approached by the Attorney General to consider whether I would sit on the committee. I established a set of parameters under which I would consider it, as an adviser. As an independent officer of the legislature, I was there simply to advise the committee on what deputants had put forward and on how those things might be operationalized or what administrative role Elections Ontario might play with regard to some of those suggestions.

I was not involved necessarily in the drafting of the legislation. I was consulted during the deliberation process again, appearing a couple of times to provide insight and recommendations.

It was a conscious decision on my part, because as I indicated in my comments to the committee, I saw Ontario as being at a watershed moment at which we had the opportunity to reform the political financing regime in Ontario in a significant manner, which had not been undertaken, quite honestly, in 40 years. I felt it was time to see that.

**Mr. John Nater:** You commented briefly on public and private funding for political actors. One challenge, I think—and I would like you to shed some light on it—concerns how public funding is made available to individual riding associations through Ontario's regime.

**Mr. Greg Essensa:** Ontario undertook a unique process—my understanding is it's the only process in the country—whereby every quarter constituency associations divvy up \$6,250 based on the previous election's results. If party A received 40% of the vote, it will receive 40% of the funding. There was also a provision that required those constituency associations to be in compliance with Elections Ontario for the four previous years.

I can tell you that this has created greater transparency in Ontario. One of the challenges I have as the Chief Electoral Officer—and I'm sure many of you have encountered this—is that when a particular political party has had a long stretch of success in a riding, the other constituency associations are oftentimes challenged to get their required reporting in to electoral management bodies.

In Ontario, the case was no different. This requirement, though, for providing the funding has provided greater transparency, because many if not all of those constituency associations have worked devilishly hard to make sure they're in compliance now. There is thus in fact greater transparency in that regard.

**Mr. John Nater:** Currently, ministers, the premier, and MPPs are all forbidden from attending fundraising activities. That ban currently doesn't apply, if I understand correctly, to nominated candidates, and I understand that the legislature is considering amendments to include nominated candidates as well.

Is this something that you support also, to include nominated candidates; for example, to include a PC candidate in a Conservative stronghold such as Hamilton Centre in the act, yet not include someone such as the chief of staff to the Minister of Finance. Is that something you support?

**Mr. Greg Essensa:** I do support that, because, as the provision is worded in our act, candidates can be nominated by their party but are not considered registered candidates until they register with Elections Ontario. There is thus a gap period. This means that you can be the nominated candidate and attend these fundraising events

because you have not been the “registered candidate”. I therefore support the proposed amendment in that regard.

**Mr. John Nater:** You support keeping the exclusion for chiefs of staff?

**Mr. Greg Essensa:** That's correct.

**Mr. John Nater:** What's your reasoning on that?

**Mr. Greg Essensa:** I'm sorry?

**Mr. John Nater:** Why don't you support including the chief of staff to the Minister of Finance, for example?

**Mr. Greg Essensa:** Oh, chiefs of staff to ministers, yes, I do support that; for non-ministers, I don't.

**Mr. John Nater:** Thank you.

Could you maybe shed some light on some of the activities that were happening that led to the creation of this legislation? What was going on in Ontario at the time that caused the legislature to go ahead with this type of financing?

**Mr. Greg Essensa:** I believe the genesis of this was really several media articles that dominated the newspapers in Toronto and other parts of Ontario, which identified the current government as having what were deemed cash for access events. There would be private dinners with substantive amounts of money to gain entry. There might be only 20 or 30 people, and the dinners might be with perhaps the Minister of Finance, the Premier, or other influential individuals. There were a number of articles throughout Ontario during that time frame last spring, March and April, and the government at that point deemed it necessary to address that, which resulted in the creation of Bill 2 and the committee travelling the province to hear from Ontarians.

● (1325)

**Mr. John Nater:** If my memory is correct, there seems to have been also an unofficial quota—or perhaps an official quota—from the Premier's office to each minister to raise a certain amount. Are you familiar with that?

**Mr. Greg Essensa:** I'm only familiar with it through what was reported in the newspapers.

**Mr. John Nater:** Going forward, there would still be nothing preventing the party leadership from encouraging each riding association, each fundraising wing, to raise money, just with the provision that ministers couldn't directly attend but their surrogates could, right?

**Mr. Greg Essensa:** There's nothing in the act that would prevent that.



**Mr. John Nater:** You mentioned the seven-day notice required provincially. Federally, a five-day notice is proposed. So I have two questions on that. One is whether you think that's reasonable. Second—and those on this side have raised this multiple times—in a situation in which a long-standing event is organized but at the outset there is no attendance of a designated office-holder, no attendance necessarily of a prime minister or of a minister, and there might be a wink-wink, nudge-nudge, but then that person is added a day or two or a matter of hours before the event is actually held, and perhaps there was general knowledge that the person would be there. Do you see that as a loophole, or do you see some way that the act ought to be changed to address that?

**Mr. Greg Essensa:** I would suggest that the last part might be difficult to enforce and difficult to actually adopt from a practical standpoint. I believe that someone as busy as the Prime Minister or the Premier of Ontario or any other large jurisdiction may in fact, because of the nature of their schedules, have last-minute alterations that allow them to attend such events. I think it would be difficult to enforce from an electoral management body perspective, and I'm not necessarily sure of the public nature of best practice for having that in place.

**The Chair:** Thank you very much.

Our last questioner is Mr. Christopherson.

**Mr. David Christopherson:** Thanks very much, Mr. Chair. It's always a blast from the past to be talking about Ontario, where I spent 13 happy years.

Thank you so much for coming. Obviously, Ontario often provides a lot of guidance on these issues, being the largest province in the Confederation.

I just want to revisit your comment about public financing and how you believe there should be a balance. Do you think Ontario has the right balance? Could I have your thoughts on that and any thoughts on the federal..., which would have to be.... I don't think I'm being unfair when I characterize it as being.... Well, I'll just leave it at that, and you can comment on the federal side of things as you see fit.

**Mr. Greg Essensa:** As I stated many times in my appearances in Ontario and I have stated here, I am a believer in a balance between public and private financing. There are many models, and prior to my appearance here, I reviewed the models of some of the other individuals who appeared here. Mr. Conacher was one, and he advocated for the Quebec model.

I am aware of other jurisdictions, based on my 32 years in the electoral business. New York City has a matching grants program. There are another couple of jurisdictions in the United States that have matching grants programs. I don't advocate for one over the other, from a public policy perspective. I do advocate very strongly, though, that no public financing model should unduly enrich the political parties and/or candidates. At best, it should be revenue neutral, from my perspective.

**Mr. David Christopherson:** How would you approach that?

**Mr. Greg Essensa:** That is based on the fact that, for a number of years, electoral management bodies, Elections Ontario and Elections Canada, have a great number of historical records and information

based on fundraising activities and on the amounts that both candidates and political parties have raised over the years and have spent. We have all kinds of statistics to show what the average political party has spent on a campaign in Ontario over the last 10 to 15 years. There can be some fairly easy analysis done on that to ensure that, whatever model you put in place, it does not unduly enrich political actors.

**Mr. David Christopherson:** It's interesting. Just to be fair-minded, in the past regime, most of the political parties were within the boundaries you are suggesting, with the exception of one significant party. I'm not going to name it, but the story goes that basically they didn't have to do any fundraising because that just covered everything they needed, and I would suspect that it starts to enter into the domain that you're suggesting is an unfair enrichment. This is what I meant by my first question.

Let's just say, for the sake of argument, that there is one party that benefits for a whole host of reasons, and yet it works fine on balance for everyone else. How do you go about trying to get a system that would be fair for everyone when the dynamic of one party is such that it's just going to be almost impossible? Do you kind of live with that?

I'm asking because, in my opinion, you could say that the regime we had federally before was fair-minded for most of the players—it struck that balance that you've talked of and most of us feel comfortable with—but not that one. You are never really going to find a regime that would bring that in in the same way just because of the dynamics of the party and the way they approached federalism.

Have you any further thoughts? Do you still live with it if you say that we have 80% of the players covered, and the 20% we'll just have to live with? Is there a mitigating factor I'm not thinking of? Could I just have your thoughts, sir?

•(1330)

**Mr. Greg Essensa:** I would recommend to the committee that, in addition to the provisions that are currently in the bill, political financing is something that I as Chief Electoral Officer believe should be reviewed on a consistent basis, and there should be a committee to examine, as you just suggested, whether there is a public financing regime that is unduly enriching one political party.

There should be some analysis done after every election. Unfortunately, at times in this country, as I've noted looking at various jurisdictions, we tend to take a very long-term approach to electoral reform, and it can be campaign finance reform. As I indicated, in Ontario it had been many decades since we had significant reform. I think that is a mistake.

We should have a more regularized process enshrined in the statute whereby we would have an analysis done after every election, every five years, no different from what we do with other components of our society. We have the census every 10 years. It is automatic. For electoral reform, we should have something similar at both the federal and provincial levels.

**Mr. David Christopherson:** I hope I'm not putting words in your mouth, but that would prevent things from getting worse, bad, terrible, horrible, with public scandals, and then wholesale change again. Rather than that, we could do it on a regular basis to stay on top of the thing.

**Mr. Greg Essensa:** As I indicated in my opening comments, the law of unintended consequences is something we have seen in Ontario. I have already written once to the legislature about that based on the reforms they put in place at the end of 2016. I suspect I will write again after our 2018 general election, after what I have seen.

Quite honestly, the electoral process is at the heart of our democracy. It is something that parliamentarians should look at on a regular basis.

**Mr. David Christopherson:** Thank you.

As I've grown to expect, the contribution of the public service in Ontario is fantastic, and you showed that again today. Thanks so much.

Thanks, Chair. I'm good.

**The Chair:** Thank you.

Thank you very much for coming.

I have two quick things for the committee. When we're doing clause-by-clause, I assume it's okay if we have the officials here, as is normal, in case we have any questions.

Second, could each party bring their suggestions for our study on parent-friendly, women with babies..., for the end of Thursday's meeting so we can—

**Mr. Scott Reid (Lanark—Frontenac—Kingston, CPC):** Chair, parents with babies are parents of any gender.

**The Chair:** I mean parents of any gender. We'll start planning at the next meeting.

Thank you. It was a good meeting, everyone. Thanks.

The meeting is adjourned.

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